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FILED BY ECF

Hon. Jesse M. Furman
United States District Judge
United States District Court for the
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, New York 10007

Re: *State of New York v. U.S. Dep't of Commerce*, No. 18-cv-2921 (JMF)

Dear Judge Furman:

Defendants respectfully submit the attached declaration in accordance with the Court's instruction in its January 2, 2020, Memo Endorsement, ECF No. 682, directing that, "within two days of the final production" of newly identified documents responsive to Plaintiffs' discovery requests, "Defendants shall file a sworn declaration confirming that the production has been completed."

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

/s/ Carol Federighi
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cc: All counsel of record (via ECF)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
COMMERCE, *et al.*,

Defendants.

No. 18-cv-02921

DECLARATION OF CAROL FEDERIGHI

I, CAROL FEDERIGHI, pursuant to the provisions of 28 U.S.C. § 1746, declare, under penalty of perjury, as follows:

1. I am an attorney with the Civil Division, United States Department of Justice, Washington, D.C. Since April, 2018, I have been assigned responsibility for representing Defendants in this matter. This declaration is being submitted in response to the Court's memo endorsement of January 2, 2020 (ECF No. 682), directing that, "within two days of the final production" of newly identified documents responsive to Plaintiffs' discovery requests, "Defendants shall file a sworn declaration confirming that the production has been completed." This declaration is based on personal knowledge and on information furnished me in the course of my official duties.

2. The review and production of newly identified documents, referenced in ECF No. 682, is complete. The results of this process are summarized below.

3. On December 19, 2019, Defendants reported to the Court that they had identified the most likely explanation for the inadvertent omission of certain documents from production

during the discovery phase of this case (*i.e.*, a faulty search configuration), and that they had run new searches using corrected configurations to capture other documents that were also similarly omitted during the discovery phase. *See* ECF No. 676.

4. These corrected searches identified a total of 2,545 potentially responsive documents. An initial preliminary review by counsel eliminated several hundred documents that were determined to be not responsive. After accounting for this initial review, Defendants reported in their December 19, 2019, letter that they had located approximately 480 potentially responsive e-mails not retrieved by the prior searches, which, including attachments, totaled 2,062 documents remaining for review. ECF No. 676.

5. The full review of the entire set of 2,545 documents (including a further review of those initially determined to be nonresponsive) resulted in the production of 742 documents between January 10 and February 21, 2020, as follows:

- a. 740 of the newly identified documents (266 emails and 474 attachments) were produced in full or in part to Plaintiffs. Two additional emails that were later designated as nonresponsive were also produced.
- b. 132 of the newly identified documents (3 emails and 129 attachments) were withheld in full on the basis of privilege.
- c. The responsive emails included 354 nonresponsive attachments, which were not produced.
- d. 421 of the newly identified documents (107 emails and their 314 attachments) were determined to be duplicative of documents that had previously been produced.

- e. Another 896 of the newly identified documents (130 emails and their 766 attachments) were determined not to be responsive.
- f. Four privilege logs, describing the withholdings in each of the four partial productions, were produced.

I DECLARE under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of February, 2020, in Washington, DC.

s/Carol Federighi
CAROL FEDERIGHI